

REMARKS/DISCUSSION OF ISSUES

Claims 1-13 are pending in the application. Claims 1-13 are rejected.

Claims 1-13 are rejected under 35 USC 103(a) as being unpatentable over newly cited Lys et al. (U.S. 6,211,626) (herein 'Lys') in view of previously cited Yablonowski.

Lys teaches a current control system for a lighting assembly, wherein each current controlled lighting unit is uniquely addressable and capable of receiving illumination color information on a computer lighting network. See col. 5, lines 45-51.

Lys discloses, with reference to Fig. 90B, a sensor module 2050, which may be, *inter alia*, a light meter for measuring the intensity of light reflected by the surface being illuminated. See col. 59, lines 8-12.

Lys claims a light module comprising, *inter alia*, a processor for controlling the amount of electrical current supplied to a plurality of light emitting diodes, in order to generate a color within the color spectrum. See claim 1.

However, as acknowledged by the Examiner, Lys does not teach determining a customer's light usage fee based on lumens. Indeed, Lys mentions nothing with regard to customer usage fees of any kind.

Yablonowski teaches measuring power consumption of a facility before and after retrofitting a lighting system with a power savings device, and charging a fee based on the power savings.

In contrast, Applicant's invention relates to measuring lumens generated from the lighting system or changes of light spectrum generated by the lighting system, and determining a

customer's light usage fee based on the lumens generated or light spectrum changes.

The Examiner contends that it would have been obvious to modify Lys to include determining a customer's usage fee based on power consumed, as disclosed by Yablonowski, because a business needs funds to operate.

This statement assumes that the customer of Lys' system is an end user. However, the customer could also be an intermediary, such as a distributor, or a retailer, who is in the business of installing lighting systems for end users. In the case of such an intermediary, Lys could not charge a usage fee, since the customer is not the end user.

Since Lys is concerned with current control of uniquely addressable lighting units in a computer lighting network, in order to generate colors within the color spectrum, and is not concerned with fees for the use of his system, or even the manner in which his system is marketed to the end user, there would be no motivation to modify Lys in the manner suggested by the Examiner.

The fact that businesses need funds to operate is irrelevant to a determination of obviousness in this case. In order for a combination of references to be effective under Section 103(a), there must be some teaching or suggestion contained within at least one of the references which would lead the skilled artisan to make the modification urged by the Examiner.

Neither Lys nor Yablonski contain any teaching or suggestion that Lys' system could benefit from any of the power savings devices disclosed by Yablonski. The mere fact that businesses need funds to operate is, while common knowledge, too general and vague to provide sufficient motivation.

Even if Yablonski could be said to suggest that Lys should charge a customer for usage, this modification would not result in Applicant's claimed invention, since Yablonski's usage fee is based on power savings, not on lumens generated or light spectrum changes, as claimed by Applicant.

Thus, the combination of Lys and Yablonski actually leads the skilled artisan away from Applicant's claimed invention.

Accordingly, it is urged that claims 1-13 are patentable under 35 USC 103(a) over Lys in view of Yablonowski, and it is urged that the rejection is in error and should be withdrawn.

Regarding claim 5, the Examiner urges that Lys teaches installing a lighting system for a customer, citing col. 7, lines 1-4 of the reference. However, this passage does not state that a lighting system is installed for a customer, nor, as already stated, are customer installations mentioned elsewhere in the reference.

Next, with regard to both claim 5 and claim 10, the Examiner urges that by controlling the current to lighting units in a lighting system to achieve a desired color, Lys has established a 'straight correlation' between energy consumed and changes in light spectrum.

The Examiner refers to col. 6, lines 60-66 of Lys, wherein it is stated that a processor is provided for controlling the amount of current supplied to the LED system, so that a particular amount of current supplied thereto generates a corresponding color within the color spectrum.

This argument assumes that controlling the current is the same as measuring the energy consumed.

However, controlling the amount of current supplied is not the same as measuring the amount of energy consumed. The current is supplied to individual lighting units within a

lighting system which includes a computer network. The power requirements of network, as well as the inefficiencies in the lighting units and the line resistances would all contribute significantly to the amount of energy consumed in running the system.

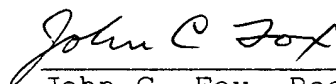
Lys does not indicate that any measurements are made to determine the amount of energy consumed. He only controls the current to achieve a desired color, and does not keep track of the total energy consumed.

Regarding dependent claims 2-4 and 6-13, without conceding patentability per se of these claims, they are nevertheless patentable by virtue of their dependency on claims 1, 5 and 10.

Accordingly, in view of the above remarks, it is urged that claims 1-13 are not obvious over the combination of Lys and Yablonski, and that the rejection under 35 USC 103(a) is in error and should be withdrawn.

In view of the foregoing, Applicant respectfully requests that the Examiner withdraw the rejection of record, allow all of the pending claims, and find the application to be in condition for allowance.

Respectfully submitted,



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